

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI PARESH M JOSHI, JUDICIAL MEMBER

ITA No.464/Ind/2025 & 160/Ind/2026
(AY: 2013-14) (AY: 2013-14)

SHAILESH KALWADIA (HUF), MIG-8, Gauri Shankar Bhawan, Arvind Nagar, Ujjain (PAN:AATHS4241J)	<u>बनाम/</u> Vs.	ITO, BPL-C(91) (1)
(Appellant)		(Respondent)
Assessee by	Ms. Ruchira Nerkar, Adv.	
Revenue by	Shri Ashish Porwal, Sr.DR	
Date of Hearing	19.03.2026	
Date of Pronouncement	27.03.2026	

आदेश / O R D E R

Per Paresh M Joshi, J.M.:

(I) ITA No:- 464/Ind/2025 AY-2013-14

This is an Appeal filed by the Assessee under section 253 of the income tax Act 1961,[herein after referred to as the Act for sake of brevity] before this tribunal, as & by way of a second appeal .The Assessee is aggrieved by the order bearing No:-ITBA/NFAC/S/250/2024-25/1075250428(1) dated 29.03.2025 passed by the Ld. CIT(A) u/s 250 of the Act, which is herein after referred to as the “**Impugned order**”. The Relevant Assessment year is 2013-14 and the

corresponding previous year period is from 01.04.2012 to 31.03.2013

2.

Factual Matrix

2.1 That as and by way of an Assessment order made u/s 147 rws 144B of the Act, the total income of the Assessee was computed & assessed at Rs. 19,96,350/-. The total income as per the return of income was at Rs.1,53,375/-. The addition of Rs.18,42,978/- was made as income from undisclosed sources in guise of share transaction. The tax on total income assessed was directed to be computed. That the aforesaid "Assessment order" bears no: - ITBA/AST/S/147/2021-22/1041857732(1) and that the same is dated 28/03/2022. Which is herein after referred to as the "**Impugned Assessment Order**"

2.2 That the Assessee being aggrieved by the aforesaid "**Impugned Assessment Order**" prefers the first appeal u/s 246A of the Act before the Ld. CIT (A) who by the "**Impugned Order**" has dismissed the first appeal of the Assessee on the

These grounds of appeal have no merit and hence these are dismissed.

5. In the result, appeal is dismissed."

2.3 That the Assessee being Aggrieved by the **"Impugned Order"** has preferred the instant second appeal before this Tribunal and has raised the following grounds of appeal in the form No. 36 against the **"Impugned Order"** which are as under:-

"1. Initiation of Reassessment Based on Third-Party Information: The learned CIT(A) has erred in law and in fact in confirming the initiation of reassessment proceedings under section 147/148 based solely on third-party information, without granting the assessee any opportunity for cross-examination or verification of such information, which is bad in law.

2. Addition of ₹18,42,978/- on Account of Alleged Bogus LTCG: The learned CIT(A) has erred in confirming the addition of ₹18,42,978/- as unexplained income under section 68, ignoring the explanation and supporting documents furnished by the appellant and treating genuine Long Term Capital Gains (LTCG) as bogus LTCG on transfer of equity shares as claimed exempt income u/s 10(38) of the IT Act, by the Appellant, which is wrong and baseless.

3. Application of Section 68 and Section 115BBE: The learned CIT(A) has erred in confirming the addition of income covered u/s 68 of the IT Act being unexplained cash credit and applying the provisions of section 115BBE of the IT Act on the addition made of ₹18,42,978/- though the transaction considered and disclosed in return as LTCG income was duly accounted.

4. The learned CIT(A) has erred in stating that no submissions were made during the appellate proceedings, whereas the appellant had duly filed written submissions and supporting 4 documents on multiple occasions during the hearing process. The CIT(A)'s failure to consider those submissions and pass a speaking order amounts to a violation of the principles of natural justice.

5. The appellant craves leave to add, alter, amend or withdraw any ground(s) of appeal at or before the time of hearing."

3.

Record of Hearing

3.1 The hearing in the matter took place before this Tribunal on 19.03.2026 when the Ld. AR for & on behalf of the Assessee appeared before us & interalia contended that the **"Impugned Order"** is bad in law, illegal & not Proper. It is passed in the violation of the principles of natural justice. It therefore deserves to be set aside. It was finally prayed by the Ld. AR that no opportunities of hearing has been provided by the Ld. CIT(A) to the assessee. In this regard our attention was invited to page 83 of PB were in the assessee made a grievance about no notice u/s 250 were served by the Ld. CIT(A) before passing the impugned order to CBDT on 01.04.2025. Therefore it was contended that there is a violation of the principles of natural justice by Ld. CIT (A) and hence impugned order should be set aside. In fact Ld. AR has sought one more opportunity as last chance so that matter could be decided basis merits after hearing assessee fully. Per contra the Ld. DR appearing for the revenue

submitted that with regard to the **"Impugned order"** appropriate decision basis law be taken by this tribunal he however state that the matter should preferably be remanded back to the file of Ld. CIT (A) for De novo adjudication. Hearing was then concluded and closed.

4. **Observations Findings & conclusions**

4.1 We now have to decide the legality, validity and propriety of the **"impugned order"** basis records of the case & the rival submission canvassed before us.

4.2 We have carefully perused the records of the case and have heard the submissions.

4.3 We basis records of the case & after hearing & upon examining the rival contentions of the Ld. AR & the Ld. DR canvassed before us are of the considered opinion that the **"impugned order"** deserves to be set aside as both Ld. AR and Ld. DR are at **ad idem** that the **"impugned order"** is in the violation of the principle of natural justice. **Even otherwise** the Ld. AR has expressed that they would make full and complete

representation before CIT (A) if one more opportunity is afforded to them.

4.4 In view of the above premises laid down, we set aside the **“impugned order”** as and by way of remand back to the file of Ld. CIT (A) on De novo basis. The Ld. CIT (A) is directed to pass fresh order basis merits of the case so that correct total income of the assessee is determined basis merits of the case.

5

Order

5.1 In the result the **“Impugned order”** is set aside as and by way of remand back to the file of Ld. CIT (A) on De novo basis.

5.2. The appeal of the assessee is allowed for statistical purpose.

(II) ITA No: - 160/Ind/2026 AY- 2013-14

5.3 In this appeal there is an “impugned rectification order u/s 154 of the act” as the tax on account of addition of Rs.1842987/- [ITANo.464/Ind/2025 A.Y. 2013-14 was levied as per slab rates instead of section 115BBE rates.[ITNS-150] & other short tax liabilities. The amount of tax payable was accordingly corrected as mistake apparent on record. The “impugned order’ of the Ld. CIT (A) bears no: - ITBA/APL/S/250/2025-26/1081030245(1)

and same is dated 23.09.2025 which upheld the rectification order dated 07.12.2023. There is a delay of 60 days in filing this second appeal before this tribunal for which after perusing the affidavit dated **18.03.2026**. We find **“sufficient cause”** in condoning delay. Accordingly the delay is condoned and the appeal is admitted. Since both the appeals were heard together and identical contentions were taken up for the impugned orders in so far as lack of opportunity of hearing before the Ld. CIT(A) was concerned and both Ld. AR and Ld. DR are at **ad idem** that **“impugned orders”** are in the violation of the principle of natural justice. Therefore we set aside the same and remand the matter back to the file of Ld. CIT (A) on De novo basis, Mutatis mutandis order made in ITA No:- 464/Ind/2025.

5.4 In the premises both the appeals are allowed for statistical purpose.

Pronounced in open court on 27.03.2026.

Sd/-

(BHAGIRATH MAL BIYANI)
ACCOUNTANT MEMBER

Sd/-

(PARESH M JOSHI)
JUDICIAL MEMBER

Indore

Dated : 27/03/2026

Patel/Sr. PS

Copies to:

(1)	The appellant
(2)	The respondent
(3)	CIT
(4)	CIT(A)
(5)	Departmental Representative
(6)	Guard File

By order

Senior Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore